

AN ACT

relating to improper relationships between educators and students and reporting of educator misconduct; creating a criminal offense and expanding the applicability of an existing offense; authorizing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.12(a), Penal Code, is amended to read as follows:

(a) An employee of a public or private primary or secondary school commits an offense if the employee:

(1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works;

(2) holds a position described by Section 21.003(a) or (b), Education Code, regardless of whether the employee holds the appropriate certificate, permit, license, or credential for the position, [a certificate or permit issued as provided by Subchapter B, Chapter 21, Education Code, or is a person who is required to be licensed by a state agency as provided by Section 21.003(b), Education Code,] and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:

(A) enrolled in a public or private primary or secondary school, other than a school described by Subdivision (1) [in the same school district as the school at which the employee

1 ~~works~~]; or

2 (B) a student participant in an educational
3 activity that is sponsored by a school district or a public or
4 private primary or secondary school, if[+]

5 [~~(i)~~] students enrolled in a public or
6 private primary or secondary school are the primary participants in
7 the activity; [~~and~~

8 [~~(ii) the employee provides education~~
9 ~~services to those participants,~~] or

10 (3) engages in conduct described by Section 33.021,
11 with a person described by Subdivision (1), or a person the employee
12 knows is a person described by Subdivision (2)(A) or (B),
13 regardless of the age of that person.

14 SECTION 2. Article 42.01, Code of Criminal Procedure, is
15 amended by adding Section 12 to read as follows:

16 Sec. 12. In addition to the information described by
17 Section 1, the judgment should reflect affirmative findings entered
18 pursuant to Article 42.0192.

19 SECTION 3. Article 42.018(a), Code of Criminal Procedure,
20 is amended to read as follows:

21 (a) This article applies only to:

22 (1) [~~to~~] conviction or deferred adjudication
23 community supervision granted on the basis of an offense for which a
24 conviction or grant of deferred adjudication community supervision
25 requires the defendant to register as a sex offender under Chapter
26 62; or

27 (2) conviction of[+]

1 [~~(A)~~] an offense under Title 5, Penal Code, ~~[, or~~
2 [~~(B)~~ an offense on conviction of which a
3 defendant is required to register as a sex offender under Chapter
4 ~~62, and~~

5 [~~(2)~~] if the victim of the offense was [~~is~~] under 18
6 years of age at the time the offense was committed.

7 SECTION 4. Chapter 42, Code of Criminal Procedure, is
8 amended by adding Article 42.0192 to read as follows:

9 Art. 42.0192. FINDING REGARDING OFFENSE RELATED TO
10 PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense
11 described by Section 824.009, Government Code, the judge shall make
12 an affirmative finding of fact and enter the affirmative finding in
13 the judgment in the case if the judge determines that the offense
14 committed was related to the defendant's employment described by
15 Section 824.009(b), Government Code, while a member of the Teacher
16 Retirement System of Texas.

17 (b) A judge who makes the affirmative finding described by
18 this article shall make the determination and provide the notice
19 required by Section 824.009(1), Government Code, as applicable.

20 SECTION 5. Section 21.006, Education Code, is amended by
21 amending Subsections (b), (b-1), (c), (e), and (f) and adding
22 Subsections (b-2), (c-1), (i), and (j) to read as follows:

23 (b) In addition to the reporting requirement under Section
24 261.101, Family Code, the superintendent or director of a school
25 district, district of innovation, open-enrollment charter school,
26 regional education service center, or shared services arrangement
27 shall notify the State Board for Educator Certification if:

1 (1) an educator employed by or seeking employment by
2 the school district, district of innovation, charter school,
3 service center, or shared services arrangement has a criminal
4 record and the school district, district of innovation, charter
5 school, service center, or shared services arrangement obtained
6 information about the educator's criminal record by a means other
7 than the criminal history clearinghouse established under Section
8 [411.0845](#), Government Code;

9 (2) an educator's employment at the school district,
10 district of innovation, charter school, service center, or shared
11 services arrangement was terminated and there is ~~[based on]~~
12 evidence that the educator:

13 (A) abused or otherwise committed an unlawful act
14 with a student or minor;

15 (A-1) was involved in a romantic relationship
16 with or solicited or engaged in sexual contact with a student or
17 minor;

18 (B) possessed, transferred, sold, or distributed
19 a controlled substance, as defined by Chapter [481](#), Health and
20 Safety Code, or by 21 U.S.C. Section 801 et seq.;

21 (C) illegally transferred, appropriated, or
22 expended funds or other property of the school district, district
23 of innovation, charter school, service center, or shared services
24 arrangement;

25 (D) attempted by fraudulent or unauthorized
26 means to obtain or alter a professional certificate or license for
27 the purpose of promotion or additional compensation; or

1 (E) committed a criminal offense or any part of a
2 criminal offense on school property or at a school-sponsored event;

3 (3) the educator resigned and there is evidence that
4 the educator engaged in misconduct described by Subdivision (2); or

5 (4) the educator engaged in conduct that violated the
6 assessment instrument security procedures established under
7 Section 39.0301.

8 (b-1) A superintendent or director of a school district,
9 district of innovation, [or] open-enrollment charter school,
10 regional education service center, or shared services arrangement
11 shall complete an investigation of an educator that involves [~~is~~
12 ~~based on~~] evidence that the educator may have engaged in misconduct
13 described by Subsection (b)(2)(A) or (A-1), despite the educator's
14 resignation from [~~district or school~~] employment before completion
15 of the investigation.

16 (b-2) The principal of a school district, district of
17 innovation, or open-enrollment charter school campus must notify
18 the superintendent or director of the school district, district of
19 innovation, or charter school not later than the seventh business
20 day after the date:

21 (1) of an educator's termination of employment or
22 resignation following an alleged incident of misconduct described
23 by Subsection (b); or

24 (2) the principal knew about an educator's criminal
25 record under Subsection (b)(1).

26 (c) The superintendent or director must notify the State
27 Board for Educator Certification by filing a report with the board

1 not later than the seventh business day after the date the
2 superintendent or director receives a report from a principal under
3 Subsection (b-2) or knew about an educator's [~~employee's criminal~~
4 ~~record under Subsection (b)(1) or a~~] termination of employment or
5 resignation following an alleged incident of misconduct described
6 by Subsection (b) or an employee's criminal record under Subsection
7 (b)(1).

8 (c-1) The report under Subsection (c) must be:

9 (1) in writing; and

10 (2) in a form prescribed by the board.

11 (e) A superintendent, ~~or~~ director, or principal of a
12 school district, district of innovation, open-enrollment charter
13 school, regional education service center, or shared services
14 arrangement who in good faith and while acting in an official
15 capacity files a report with the State Board for Educator
16 Certification under this section or communicates with another
17 superintendent, director, or principal concerning an educator's
18 criminal record or alleged incident of misconduct is immune from
19 civil or criminal liability that might otherwise be incurred or
20 imposed.

21 (f) The State Board for Educator Certification shall
22 determine whether to impose sanctions, including an administrative
23 penalty under Subsection (i), against a principal who fails to
24 provide notification to a superintendent or director in violation
25 of Subsection (b-2) or against a superintendent or director who
26 fails to file a report in violation of Subsection (c).

27 (i) If an educator serving as a superintendent or director

1 is required to file a report under Subsection (c) and fails to file
2 the report by the date required by that subsection, or if an
3 educator serving as a principal is required to notify a
4 superintendent or director about an educator's criminal record or
5 alleged incident of misconduct under Subsection (b-2) and fails to
6 provide the notice by the date required by that subsection, the
7 State Board for Educator Certification may impose on the educator
8 an administrative penalty of not less than \$500 and not more than
9 \$10,000. The State Board for Educator Certification may not renew
10 the certification of an educator against whom an administrative
11 penalty is imposed under this subsection until the penalty is paid.

12 (j) A superintendent or director required to file a report
13 under Subsection (c) commits an offense if the superintendent or
14 director fails to file the report by the date required by that
15 subsection with intent to conceal an educator's criminal record or
16 alleged incident of misconduct. A principal required to notify a
17 superintendent or director about an educator's criminal record or
18 alleged incident of misconduct under Subsection (b-2) commits an
19 offense if the principal fails to provide the notice by the date
20 required by that subsection with intent to conceal an educator's
21 criminal record or alleged incident of misconduct. An offense
22 under this subsection is a state jail felony.

23 SECTION 6. Subchapter A, Chapter 21, Education Code, is
24 amended by adding Section 21.0061 to read as follows:

25 Sec. 21.0061. NOTICE TO PARENT OR GUARDIAN ABOUT EDUCATOR
26 MISCONDUCT. (a) The board of trustees or governing body of a
27 school district, district of innovation, open-enrollment charter

1 school, regional education service center, or shared services
2 arrangement shall adopt a policy under which notice is provided to
3 the parent or guardian of a student with whom an educator is alleged
4 to have engaged in misconduct described by Section 21.006(b)(2)(A)
5 or (A-1) informing the parent or guardian:

6 (1) that the alleged misconduct occurred;

7 (2) whether the educator was terminated following an
8 investigation of the alleged misconduct or resigned before
9 completion of the investigation; and

10 (3) whether a report was submitted to the State Board
11 for Educator Certification concerning the alleged misconduct.

12 (b) The policy required by this section must require that
13 information specified by Subsection (a)(1) be provided as soon as
14 feasible after the employing entity becomes aware that alleged
15 misconduct may have occurred.

16 SECTION 7. Subchapter A, Chapter 21, Education Code, is
17 amended by adding Section 21.009 to read as follows:

18 Sec. 21.009. PRE-EMPLOYMENT AFFIDAVIT. (a) An applicant
19 for a position described by Section 21.003(a) or (b) with a school
20 district, district of innovation, open-enrollment charter school,
21 regional education service center, or shared services arrangement
22 must submit, using a form adopted by the agency, a pre-employment
23 affidavit disclosing whether the applicant has ever been charged
24 with, adjudicated for, or convicted of having an inappropriate
25 relationship with a minor.

26 (b) An applicant who answers affirmatively concerning an
27 inappropriate relationship with a minor must disclose in the

1 affidavit all relevant facts pertaining to the charge,
2 adjudication, or conviction, including, for a charge, whether the
3 charge was determined to be true or false.

4 (c) An applicant is not precluded from being employed based
5 on a disclosed charge if the employing entity determines based on
6 the information disclosed in the affidavit that the charge was
7 false.

8 (d) A determination that an employee failed to disclose
9 information required to be disclosed by an applicant under this
10 section is grounds for termination of employment.

11 (e) The State Board for Educator Certification may revoke
12 the certificate of an administrator if the board determines it is
13 reasonable to believe that the administrator employed an applicant
14 for a position described by Section 21.003(a) or (b) despite being
15 aware that the applicant had been adjudicated for or convicted of
16 having an inappropriate relationship with a minor.

17 SECTION 8. Section 21.044(g), Education Code, is amended to
18 read as follows:

19 (g) Each educator preparation program must provide
20 information regarding:

21 (1) the skills that educators are required to possess,
22 the responsibilities that educators are required to accept, and the
23 high expectations for students in this state;

24 (2) the effect of supply and demand forces on the
25 educator workforce in this state;

26 (3) the performance over time of the educator
27 preparation program;

1 (4) the importance of building strong classroom
2 management skills; [~~and~~]

3 (5) the framework in this state for teacher and
4 principal evaluation, including the procedures followed in
5 accordance with Subchapter H; and

6 (6) appropriate relationships, boundaries, and
7 communications between educators and students.

8 SECTION 9. Sections 21.054(d) and (e), Education Code, are
9 amended to read as follows:

10 (d) Continuing education requirements for a classroom
11 teacher must provide that not more than 25 percent of the training
12 required every five years include instruction regarding:

13 (1) collecting and analyzing information that will
14 improve effectiveness in the classroom;

15 (2) recognizing early warning indicators that a
16 student may be at risk of dropping out of school;

17 (3) integrating technology into classroom
18 instruction; [~~and~~]

19 (4) educating diverse student populations, including:

20 (A) students with disabilities, including mental
21 health disorders;

22 (B) students who are educationally
23 disadvantaged;

24 (C) students of limited English proficiency; and

25 (D) students at risk of dropping out of school;

26 and

27 (5) understanding appropriate relationships,

1 boundaries, and communications between educators and students.

2 (e) Continuing education requirements for a principal must
3 provide that not more than 25 percent of the training required every
4 five years include instruction regarding:

5 (1) effective and efficient management, including:

6 (A) collecting and analyzing information;

7 (B) making decisions and managing time; and

8 (C) supervising student discipline and managing
9 behavior;

10 (2) recognizing early warning indicators that a
11 student may be at risk of dropping out of school;

12 (3) integrating technology into campus curriculum and
13 instruction; ~~and~~

14 (4) educating diverse student populations, including:

15 (A) students with disabilities, including mental
16 health disorders;

17 (B) students who are educationally
18 disadvantaged;

19 (C) students of limited English proficiency; and

20 (D) students at risk of dropping out of school;

21 and

22 (5) preventing, recognizing, and reporting any sexual
23 conduct between an educator and student that is prohibited under
24 Section 21.12, Penal Code, or for which reporting is required under
25 Section 21.006 of this code.

26 SECTION 10. The heading to Section 21.058, Education Code,
27 is amended to read as follows:

1 Sec. 21.058. REVOCATION OF CERTIFICATE AND TERMINATION OF
2 EMPLOYMENT BASED ON CONVICTION OF OR PLACEMENT ON DEFERRED
3 ADJUDICATION COMMUNITY SUPERVISION FOR CERTAIN OFFENSES.

4 SECTION 11. Sections 21.058(a), (b), (c), (c-1), and (c-2),
5 Education Code, are amended to read as follows:

6 (a) The procedures described by Subsections (b) and (c)
7 apply only:

8 (1) to conviction of or placement on deferred
9 adjudication community supervision for an offense for which a
10 defendant is required to register as a sex offender under Chapter
11 62, Code of Criminal Procedure; or

12 (2) to conviction of a felony offense under Title 5,
13 Penal Code, [~~or an offense on conviction of which a defendant is~~
14 ~~required to register as a sex offender under Chapter 62, Code of~~
15 ~~Criminal Procedure; and~~

16 [~~(2)~~] if the victim of the offense was [~~is~~] under 18
17 years of age at the time the offense was committed.

18 (b) Notwithstanding Section 21.041(b)(7), not later than
19 the fifth day after the date the board receives notice under Article
20 42.018, Code of Criminal Procedure, of the conviction or placement
21 on deferred adjudication community supervision of a person who
22 holds a certificate under this subchapter, the board shall:

23 (1) revoke the certificate held by the person; and

24 (2) provide to the person, to the agency, and to any
25 school district or open-enrollment charter school employing the
26 person at the time of revocation written notice of:

27 (A) the revocation; and

1 (B) the basis for the revocation.

2 (c) A school district or open-enrollment charter school
3 that receives notice under Subsection (b) of the revocation of a
4 certificate issued under this subchapter shall:

5 (1) immediately remove the person whose certificate
6 has been revoked from campus or from an administrative office, as
7 applicable, to prevent the person from having any contact with a
8 student; and

9 (2) if the person is employed under a probationary,
10 continuing, or term contract under this chapter, with the approval
11 of the board of trustees or governing body or a designee of the
12 board or governing body:

13 (A) suspend the person without pay;

14 (B) provide the person with written notice that
15 the person's contract is void as provided by Subsection (c-2); and

16 (C) terminate the employment of the person as
17 soon as practicable.

18 (c-1) If a school district or open-enrollment charter
19 school becomes aware that a person employed by the district or
20 school under a probationary, continuing, or term contract under
21 this chapter has been convicted of or received deferred
22 adjudication for a felony offense, and the person is not subject to
23 Subsection (c), the district or school may, with the approval of the
24 board of trustees or governing body or a designee of the board of
25 trustees or governing body:

26 (1) suspend the person without pay;

27 (2) provide the person with written notice that the

1 person's contract is void as provided by Subsection (c-2); and

2 (3) terminate the employment of the person as soon as
3 practicable.

4 (c-2) A person's probationary, continuing, or term contract
5 is void if, with the approval of the board of trustees or governing
6 body or a designee of the board or governing body, the school
7 district or open-enrollment charter school takes action under
8 Subsection (c)(2)(B) or (c-1)(2).

9 SECTION 12. Subchapter B, Chapter 21, Education Code, is
10 amended by adding Section 21.0581 to read as follows:

11 Sec. 21.0581. REVOCATION FOR ASSISTING PERSON WHO ENGAGED
12 IN SEXUAL MISCONDUCT OBTAIN EMPLOYMENT. (a) The board may suspend
13 or revoke a certificate held by a person under this subchapter,
14 impose other sanctions against the person, or refuse to issue a
15 certificate to the person under this subchapter if:

16 (1) the person assists another person in obtaining
17 employment at a school district or open-enrollment charter school,
18 other than by the routine transmission of administrative and
19 personnel files; and

20 (2) the person knew that the other person has
21 previously engaged in sexual misconduct with a minor or student in
22 violation of the law.

23 (b) The commissioner may require a school district to revoke
24 or decline to issue a school district teaching permit under Section
25 21.055 issued to or requested by a person subject to board action
26 under Subsection (a).

27 SECTION 13. Section 21.062(a), Education Code, is amended

1 to read as follows:

2 (a) During an investigation by the commissioner of an
3 educator for an alleged incident of misconduct, the commissioner
4 may issue a subpoena to compel:

5 (1) the attendance of a relevant witness; or

6 (2) the production, for inspection or copying, of
7 relevant evidence that is located in this state.

8 SECTION 14. Section 21.355, Education Code, is amended by
9 amending Subsection (a) and adding Subsections (d), (e), and (f) to
10 read as follows:

11 (a) A document evaluating the performance of a teacher or
12 administrator is confidential and is not subject to disclosure
13 under Chapter 552, Government Code.

14 (d) A school district or open-enrollment charter school may
15 give the agency a document evaluating the performance of a teacher
16 or administrator employed by the district or school for purposes of
17 an investigation conducted by the agency.

18 (e) Notwithstanding Subsection (a) and except as otherwise
19 provided by a court order prohibiting disclosure, a document
20 provided to the agency under Subsection (d) may be used in a
21 disciplinary proceeding against a teacher or administrator if the
22 document may be admitted under rules of evidence applicable to a
23 contested case, as provided by Section 2001.081, Government Code.

24 (f) A document provided to the agency under Subsection (d)
25 remains confidential unless the document becomes part of the record
26 in a contested case under Chapter 2001, Government Code.

27 SECTION 15. Subchapter A, Chapter 38, Education Code, is

1 amended by adding Section 38.027 to read as follows:

2 Sec. 38.027. ELECTRONIC COMMUNICATION POLICY. (a) In this
3 section, "electronic communication" means any communication
4 facilitated by the use of any electronic device, including a
5 telephone, cellular telephone, computer, computer network,
6 personal data assistant, or pager. The term includes e-mails, text
7 messages, instant messages, and any communications made through an
8 Internet website, including a social media website or a social
9 networking website.

10 (b) A school district shall adopt a written policy
11 concerning electronic communications between a school employee and
12 a student enrolled in the district.

13 (c) The policy adopted under this section must:

14 (1) include provisions designed to prevent improper
15 electronic communications between a school employee and a student;

16 (2) allow a school employee to elect to not disclose to
17 students the employee's personal telephone number or e-mail
18 address; and

19 (3) include provisions instructing a school employee
20 about the proper method for notifying appropriate local
21 administrators about an incident in which a student engages in
22 improper communications with the school employee.

23 SECTION 16. Section 39.057(a), Education Code, is amended
24 to read as follows:

25 (a) The commissioner may authorize special accreditation
26 investigations to be conducted:

27 (1) when excessive numbers of absences of students

1 eligible to be tested on state assessment instruments are
2 determined;

3 (2) when excessive numbers of allowable exemptions
4 from the required state assessment instruments are determined;

5 (3) in response to complaints submitted to the agency
6 with respect to alleged violations of civil rights or other
7 requirements imposed on the state by federal law or court order;

8 (4) in response to established compliance reviews of
9 the district's financial accounting practices and state and federal
10 program requirements;

11 (5) when extraordinary numbers of student placements
12 in disciplinary alternative education programs, other than
13 placements under Sections 37.006 and 37.007, are determined;

14 (6) in response to an allegation involving a conflict
15 between members of the board of trustees or between the board and
16 the district administration if it appears that the conflict
17 involves a violation of a role or duty of the board members or the
18 administration clearly defined by this code;

19 (7) when excessive numbers of students in special
20 education programs under Subchapter A, Chapter 29, are assessed
21 through assessment instruments developed or adopted under Section
22 39.023(b);

23 (8) in response to an allegation regarding or an
24 analysis using a statistical method result indicating a possible
25 violation of an assessment instrument security procedure
26 established under Section 39.0301, including for the purpose of
27 investigating or auditing a school district under that section;

1 (9) when a significant pattern of decreased academic
2 performance has developed as a result of the promotion in the
3 preceding two school years of students who did not perform
4 satisfactorily as determined by the commissioner under Section
5 39.0241(a) on assessment instruments administered under Section
6 39.023(a), (c), or (l);

7 (10) when excessive numbers of students eligible to
8 enroll fail to complete an Algebra II course or any other advanced
9 course as determined by the commissioner;

10 (11) when resource allocation practices as evaluated
11 under Section 39.0821 indicate a potential for significant
12 improvement in resource allocation;

13 (12) when a disproportionate number of students of a
14 particular demographic group is graduating with a particular
15 endorsement under Section 28.025(c-1);

16 (13) when an excessive number of students is
17 graduating with a particular endorsement under Section
18 28.025(c-1);

19 (14) in response to a complaint submitted to the
20 agency with respect to alleged inaccurate data that is reported
21 through the Public Education Information Management System (PEIMS)
22 or through other reports required by state or federal law or rule or
23 court order and that is used by the agency to make a determination
24 relating to public school accountability, including accreditation,
25 under this chapter; ~~or~~

26 (15) when a school district for any reason fails to
27 produce, at the request of the agency, evidence or an investigation

1 report relating to an educator who is under investigation by the
2 State Board for Educator Certification; or
3 (16) as the commissioner otherwise determines
4 necessary.

5 SECTION 17. Subchapter A, Chapter 824, Government Code, is
6 amended by adding Section 824.009 to read as follows:

7 Sec. 824.009. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE
8 FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

9 (a) In this section, "qualifying felony" means an offense that is
10 punishable as a felony under the following sections of the Penal
11 Code:

12 (1) Section 21.02 (continuous sexual abuse of young
13 child or children);

14 (2) Section 21.12 (improper relationship between
15 educator and student); or

16 (3) Section 22.011 (sexual assault) or Section 22.021
17 (aggravated sexual assault).

18 (a-1) In this section, a "qualifying felony" includes any
19 federal offense that contains elements that are substantially
20 similar to the elements of a felony offense described in Subsection
21 (a).

22 (b) This section applies only to a person who is a member or
23 an annuitant of the retirement system and is or was an employee of
24 the public school system.

25 (c) Except as provided by Subsection (e), a person is not
26 eligible to receive a service retirement annuity from the
27 retirement system if the person is convicted of a qualifying felony

1 the victim of which is a student.

2 (d) The retirement system shall suspend payments of an
3 annuity to a person who is not eligible to receive a service
4 retirement annuity under Subsection (c), as determined by the
5 retirement system, on receipt by the retirement system of:

6 (1) notice of a conviction for a qualifying felony
7 under Subsection (f) or (l);

8 (2) notice of a conviction for a qualifying felony
9 from a district court or district attorney; or

10 (3) any other information the retirement system
11 determines by rule is sufficient to establish a conviction for a
12 qualifying felony.

13 (e) A person whose conviction is overturned on appeal or who
14 meets the requirements for innocence under Section 103.001(a)(2),
15 Civil Practice and Remedies Code:

16 (1) is entitled to receive an amount equal to the
17 accrued total of payments and interest earned on the payments
18 withheld during the suspension period; and

19 (2) may resume receipt of annuity payments on payment
20 to the retirement system of an amount equal to the contributions
21 refunded to the person under Subsection (g).

22 (f) Not later than the 30th day after the date of a person's
23 conviction for a qualifying felony, the school at which the person
24 was employed shall provide written notice of the conviction to the
25 retirement system. The notice must comply with rules adopted by the
26 board of trustees under Subsection (k).

27 (g) A person who is not eligible to receive a service

1 retirement annuity under Subsection (c) is entitled to a refund of
2 the person's retirement annuity contributions, including interest
3 earned on those contributions.

4 (h) Benefits payable to an alternate payee under Chapter 804
5 who is recognized by a domestic relations order established before
6 September 1, 2017, are not affected by a person's ineligibility to
7 receive a retirement annuity under Subsection (c).

8 (i) On conviction of a person for a qualifying felony, a
9 court may, in the interest of justice and in the same manner as in a
10 divorce proceeding, award any portion or all of the service
11 retirement annuity forfeited by the person as the separate property
12 of an innocent spouse if the annuity is partitioned or exchanged by
13 written agreement of the spouses as provided by Subchapter B,
14 Chapter 4, Family Code. The amount awarded to the innocent spouse
15 may not be converted to community property.

16 (j) Ineligibility for a retirement annuity under this
17 section does not impair a person's right to any other retirement
18 benefit for which the person is eligible.

19 (k) The board of trustees of the retirement system shall
20 adopt rules and procedures to implement this section.

21 (l) A court shall notify the retirement system of the terms
22 of a person's conviction of a qualifying felony.

23 SECTION 18. The change in law made by this Act to Section
24 21.12, Penal Code, applies only to an offense committed on or after
25 the effective date of this Act. An offense committed before the
26 effective date of this Act is governed by the law in effect on the
27 date the offense was committed, and the former law is continued in

1 effect for that purpose. For purposes of this section, an offense
2 was committed before the effective date of this Act if any element
3 of the offense was committed before that date.

4 SECTION 19. Section 12, Article 42.01, Code of Criminal
5 Procedure, and Article 42.0192, Code of Criminal Procedure, as
6 added by this Act, apply only to a judgment of conviction entered on
7 or after the effective date of this Act.

8 SECTION 20. Not later than December 31, 2017, the board of
9 trustees of the Teacher Retirement System of Texas shall adopt the
10 rules necessary to implement Section 824.009, Government Code, as
11 added by this Act.

12 SECTION 21. Section 824.009, Government Code, as added by
13 this Act, applies only to an offense committed on or after the
14 effective date of rules adopted in accordance with that section. An
15 offense committed before that date is governed by the law in effect
16 on the date the offense was committed, and the former law is
17 continued in effect for that purpose. For purposes of this section,
18 an offense was committed before the effective date of rules adopted
19 in accordance with 824.009, Government Code, as added by this Act,
20 if any element of the offense occurred before that date.

21 SECTION 22. This Act takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 7 passed the Senate on March 8, 2017, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 15, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 7 passed the House, with amendments, on May 9, 2017, by the following vote: Yeas 146, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor